

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

Printed by J. Griffin, for the State.

.....
1821.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

VOLUME THE FIRST.

Page.
 40 L. 12 of the page for 'preceding' read 'presiding'
 54 Sec. 4 L. 14 of Sec. for 'time' read 'term'
 55 7 2 for 'a' read 'or'
 55 7 9 before the word 'said' insert 'the'
 56 9 3 for 'the' read 'her'
 57 1 6 for 'to' read 'in'
 58 1 5 for 'and' after the word 'house'
 read 'or'
 61 in the title of the act, ch. vi. insert 'the' before the
 word 'crimes'
 62 Sec. 2 L. 9 of S. before the word 'offender' insert 'such'
 69 16 8 for 'Treasurer' read 'Treasury'
 73 1 15 after the word 'for' insert 'the'
 77 13 6 for 'to' read 'of'
 78 first line of the page, dele the word 'by'
 80 L. 2 of the p. after the word 'willingly' insert 'aid or'
 80 17 for 'counterfeited' read 'counterfeit'
 82 1 after the word 'in' insert 'all'
 82 Sec. 7 L. 4 of Sec. after the word 'devised' dele 'or'
 and insert '
 83 Sec. 7 L. last of S. for 'aggravations' read 'aggravation'
 84 10 6 for 'and' read 'or'
 90 1st L. of p. for 'Commissioner' read 'Commissioners'
 90 L. 20 before the word 'Commissioner' insert 'said'
 97 6 for 'assumst' read 'assumpsit'
 97 14 for 'cover' read 'covin'
 98 at the end of the act for 'January' read 'February'
 99 L. 17 of p. after the word 'year' dele ' ; ' & insert ' , and '
 100 15 at the end of the line insert 'the'
 105 at the end of the Act for '1820' read '1821'
 108 L. 14 of page, for 'nuisances' read 'nuisance'
 108 20 after the word 'each' insert 'one'
 111 25 after the word 'fail' insert 'of'
 113 11 for 'on' read 'or'
 144 last for 'performance' read 'performing'
 145 Sec. 2 L. 9 of Sec. after the word 'of' insert 'the'
 147 7 6 before the word 'release' for 'to'
 read 'a'
 150 Sec. 6 L. 2 of Sec. for 'in' read 'is'
 151 in the title, before the word 'Lands' insert 'reserved'
 153 1st line of the p. for 'whenever' read 'wherever'
 155 last before the word 'Court' for 'a' read 'any'
 156 Sec. 4 L. 26 of Sec. for 'notification' read 'notifications'
 159 9 8 for 'purpose' read 'purposes'
 167 14 5 for 'votes' read 'vote'
 193 4 10 dele 'such'
 199 17 1 for 'when' read 'where'
 202 22 6 after the word 'near, dele 'to'
 202 23 10 for 'be' read 'he'
 203 24 16 for 'of' read 'in'
 203 25 16 for 'meeting' read 'meetings'
 205 L. 18 of p. before the word 'estate' insert 'other'
 210 2 before the word 'tenement' insert 'other'
 215 4 before the word 'guardians' insert 'guard-
 dian or'
 226 Sec. 73 L. 6 of Sec. dele 'a'
 229 3 last for 'agreeably' read 'agreeable'
 230 7 19 for 'agreeably' read 'agreeable'
 231 8 6 for 'resided' read 'reside'
 242 2 5 for 'sentence' read 'sentences'
 245 7 3 after the word 'herein' insert 'be-
 fore'
 247 L. 7 of the act, ch. 56, after the word 'otherwise' in-
 sert 'interested'
 247 11 for 'statement' read 'statements'
 247 Sec. 1 L. 2 of Sec. for 'whenever' read 'wherever'
 248 3 1 for 'whenever' read 'wherever'
 248 3 14 for 'Justice' read 'Justices'

Page.
 252 L. 3 of p. for 'where' read 'wherein'
 257 5 after the word 'have' insert 'his or'
 265 Sec. 39 L. 3 of Sec. for 'when' read 'where'
 271 L. 1 and 3 of p. for 'affect' read 'effect'
 271 Sec. 6 L. 2 of Sec. before the word 'execution'
 insert 'the'
 278 19 4 for 'on' read 'in'
 280 L. 2 of p. for 'have' read 'had'
 281 22 for 'of' read 'on'
 283 13 for 'lies' read 'lays'
 283 last before the word 'defendant' insert 'the'
 284 Sec. 32 L. 2 of Sec. for 'a' read 'any'
 288 5 18 for 'whenever' read 'wherever'
 291 9 4 for 'as' read 'or'
 292 L. 4 of p. for 'examinations' read 'examination'
 293 Sec. 13 L. 5 of Sec. after the word 'article' in-
 sert 'or articles'
 297 7 5 for 'and' read 'or'
 301 L. 8 of p. for 'he' read 'be'
 309 24 between the words 'the' and 'day' should
 be a '
 310 20 for 'debt' read 'debtor'
 311 2 for 'with' read 'and of'
 312 7 for 'summon' read 'summons'
 312 9 between the words 'our' and 'Court'
 should be a '
 318 31 for 'writs' read 'writ a'
 328 Sec. 8 L. 4 of Sec. for 'grieved' read 'aggrieved'
 353 L. 14 of p. at the end of the line insert 'the'
 361 Sec. 1 L. 18 of Sec. for 'cause' read 'case'
 370 3 10 for 'to' read 'of'
 371 2 7 dele 'to'
 373 L. 15 of p. before the word 'require' insert 'to'
 376 Sec. 1 L. 10 of Sec. dele 'the' before the word
 'payment'
 378 at the end of the act, for '17' read '20'
 378 in the title, for 'selection' read 'selecting'
 379 Sec. 4 L. 5 of Sec. before the word 'divide' in-
 sert 'shall'
 394 1 9 for 'part' read 'parts'
 395 1 8 for 'acceptances' read 'accep-
 tance'
 404 1 34 before the word 'authorized'
 insert 'hereby'
 407 7 4 dele 'the'
 414 last word of the 1st act on the page, for 'therein'
 read 'thereon'
 423 Sec. 3 L. 15 of Sec. after the word 'assignments'
 insert 'thereof, and also of the assignments'
 424 Sec. 6 L. 13 of S. after the word 'papers' insert 'as'
 425 L. 7 of p. before the word 'action' insert 'an'
 428 22 for 'twelve' read 'twenty'
 431 8 for 'fifteen' read 'fifty'
 432 first line of the page should be put after the third
 432 L. 5 of the p. dele 'entering'
 432 between the 28th and 29th lines of the p. insert
 'Every blank writ of attachment, with a sum-
 mons thereon, fifteen cents'
 432 L. 37 of p. for 'judgment' read 'jurymen'
 435 9 for 'appear' read 'appears'
 435 10 for 'make' read 'makes'
 435 18 for 'taking' read 'taxing'
 444 Sec. 1 L. 6 of Sec. before the word 'records' in-
 sert 'the'
 445 1 9 for 'within' read 'of'
 445 1 19 after the word 'escape' insert
 'sickness'
 455 11 1 after the word 'of' insert 'the'

CHAPTER LXXV.

An Act determining the times and places for holding the Circuit Court of Common Pleas in the county of York.

Times and places.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That from and after the passing of this Act, the times for holding the Circuit Court of Common Pleas, within and for the County of York, shall be as follows, to wit:—At Alfred, on the second Monday of February; at York, on the last Monday of May; and at Alfred, on the fourth Monday of September, annually.

Saving clause as to processes depending, &c.

SEC. 2. *Be it further enacted,* That all writs, recognisances, warrants, complaints, appeals, and every other process, matter or thing, which, before the passing of this Act, might or ought to be returned to, or entered at the Court aforesaid, at any time heretofore appointed for holding the same, and which is altered by this Act; and all parties and persons who have been or may be required to appear and attend at the aforesaid times; and all actions, suits, matters and things, which may be pending in the said Court, at the times aforesaid, shall be returned to, entered at, appear, attend and have day, and be tried and determined in the said Court, at the times and places appointed by this Act; and all laws heretofore passed in any manner repugnant to, or inconsistent with, the provisions of this Act, are hereby repealed.

[Approved March 17, 1821.]

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CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases.

General jurisdiction of Justices of the Peace, and their duty in criminal cases, in arresting, trying, recognising and committing offenders.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by fine not exceeding five dollars, all assaults and batteries that are not of a high and aggravated nature, and to examine into all homicides, murders, treasons, and felonies done and committed in his coun-

ty, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require; and for his keeping the peace, and being of good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognise, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

SEC. 2. *Be it further enacted,* That all fines and forfeitures accruing for the breach of any bye-law, in any town within this State, may be prosecuted for, and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

Breaches of the bye-laws of towns may be prosecuted before Justices of the Peace.

SEC. 3. *Be it further enacted,* That any person aggrieved at the sentence given against him, by any Justice of the Peace, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county, and shall, before his appeal is granted, recognise to the State in such reasonable sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of

Persons aggrieved may appeal to the C. Court of Com. Pleas.

Must recognise with sureties,

and produce

copies of case at C. C. Com. Pleas.

Failing to prosecute his appeal, his default to be entered.

Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

Justices may command assistance of sheriff, deputies and constables at riots, affrays, &c.

Justices may, on their own view, (in absence of sheriff, deputies, or constables) require any person to apprehend offenders.

Penalty for refusing to obey such Justice.

If the Justice be known or declared—plea of ignorance of his office not admissible.

Justices may grant subpoenas for witnesses in criminal cases:

the whole process, and of all writings filed before the Justice, at the Court appealed to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him, with all additional costs.

SEC. 4. *Be it further enacted*, That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding six dollars; to be disposed of for the use of the town where the offence shall be committed; and levied by warrant of distress on the offenders' goods and chattels, and for want thereof on his body.

SEC. 5. *Be it further enacted*, That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority (in the absence of the Sheriff, Deputy Sheriff or Constable) to require any person or persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

SEC. 6. *Be it further enacted*, That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered to grant subpoenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before

themselves or any other Justice: *Provided*, That no Justice of the Peace shall grant subpoenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

But not on behalf of the State without consent of Attorney General, or County Attorney, except before himself.

SEC. 7. *Be it further enacted*, That the Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong.

Justices to account annually to State, County and Town Treasurers for all fines, &c.

Penalty for neglect.

SEC. 8. *Be it further enacted*, That all civil actions, wherein the debt or damage does not exceed twenty dollars (and wherein the title of real estate is not in question, and specially pleaded by the defendant) shall, and may be heard, tried, adjudged and determined by any Justice of the Peace within his county; and the Justices are severally empowered to grant summons, *capias* and attachment, at the request of any person applying for the same, directed to some proper officer within the same county, empowered by law to execute the same. And such summons or *capias* and attachment shall be duly served by such officer, seven days at the least before the day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be duly served, the party sued, after being duly called, shall not appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall give judgment against him for such damages as he shall find the plaintiff to have sustained, with costs; and if the person sued shall appear to defend the suit or oppose the same, the Justice shall award such damages as he shall find the plaintiff to have sustained: *Provided*, That no more damages than the sum of twenty dollars shall be awarded in any action originally brought or tried before a Justice of the Peace; but if the plaintiff shall not support his action, shall fail to prosecute, or become nonsuit, the Justice

Justice's jurisdiction in civil actions, (where title to real estate is not in question) to extend to 20 dollars.

Justices may issue summons *capias*, attachment, &c.

—to be served seven days before trial.

Proceedings before Justice.

Judgment, &c. if plaintiff prevail.

Damages not to exceed 20 dollars.

Judgment in case defendant prevail.

shall award to the party sued, his reasonable costs, taxed as the law directs. And upon all judgments given by a Justice of the Peace in civil actions, he shall award execution thereon in form by law prescribed.

Execution.

Justice to have jurisdiction where the *ad damnum* does not exceed 20 dollars.

SEC. 9. *Be it further enacted*, That the amount of the sum or several sums, specified, expressed or supposed to be demanded by the plaintiff in his declaration, shall not be considered as any objection against the Justice's jurisdiction, provided the *ad damnum*, or damage is not laid or stated to exceed twenty dollars.

Party aggrieved may appeal to C. C. Com. Pleas.

SEC. 10. *Be it further enacted*, That any party aggrieved at the judgment of any Justice of the Peace, in a civil action, where both parties have appeared and plead, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county; and shall before his appeal is allowed, recognise with a surety or sureties, in such reasonable sum as the Justice shall order, not exceeding thirty dollars, to pay all intervening damages and costs, and to prosecute his appeal with effect; and shall be held to produce a copy of the whole case, at the Court appealed to, and both parties shall be allowed to offer any evidence upon the trial at the Circuit Court of Common Pleas, in the same manner as if the cause had been originally commenced there. And no other appeal shall be had on such action after one trial at the Circuit Court of Common Pleas. And the Circuit Court of Common Pleas, when any person recognised as before mentioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And the Circuit Court of Common Pleas shall, when any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

—Must recognise to prosecute,

and produce copies at C. C. C. Pleas. Proceedings in that Court.

No further appeal.

Defendant in trespass failing to bring forward the action according to his recognisance.—Plaintiff to have his damages.

Appellant failing to prosecute, on complaint judgment may be affirmed.

In action of trespass when defendant pleads title to

SEC. 11. *Be it further enacted*, That when an action of trespass shall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be

allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognise to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Common Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment; and if such pleader shall refuse so to recognise, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.

real estate—
mode of pro-
ceeding before
Justice.

Appeal allow-
ed in such
cases from C.
C. Pleas to
S. J. Court.

SEC. 12. *Be it further enacted*, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

General issue
may be plead
in all actions
before Justices
and special
matter given
in evidence
except where
title to real es-
tate is relied
on by defend-
ant.

SEC. 13. *Be it further enacted*, That each Justice of the Peace may grant subpoenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

Justices may
grant subpoe-
nas in all civil
actions.

May adjourn
their Courts by
proclamation;

No Justice to
be of counsel
in any suit be-
fore himself.

SEC. 14. *Be it further enacted*, That when an executor or administrator shall be guilty of committing waste, where-

In case of
waste by exec-
utor or ad-

Administrator, Justice may proceed as C. C. Pleas may in such cases.

by he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may proceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

Justice to keep record of his proceedings.
When Justice shall die before a judgment given by him is satisfied, what proceedings to be had.

SEC. 15. *Be it further enacted,* That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost; together with the cost arising upon the scire facias. *Provided always,* That either party may appeal from the judgment as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

Appeal allowed to either party.
Justice to whom complaint is made in such cases, may summon the person possessing the record to produce it.

Punishment for refusal so to do.

Duty of the Justice when the record is produced, to transcribe it into his own records.
Copy of such transcript to be evidence.

SEC. 16. *Be it further enacted*, That all Justices of the Peace before whom actions may be commenced under former commissions, and such commissions shall expire before judgment shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace who shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such actions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.

Justices, whose commissions expire before judgment or satisfaction, may proceed, under a new commission, if seasonably obtained, to render judgment, &c.

[Approved March 15, 1821.]

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CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for preventing unnecessary costs attending the same.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That every Justice of the Peace in this State shall have power within his county to take recognisances for the payment of debts of any person who shall come before him for that purpose: which recognisance may be in substance as follows:—

Justices may take recognisances for debts.

Know all men, that I, A. B. of —, in the county of —, do owe unto C. D. of —, the sum of —, to be paid to the said C. D. on the — day of —; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at —, this — day of —, in the year of our Lord —. Witness, my hand and seal — A. B. — ss. Acknowledged the day and year last abovesaid. Before E. F. Justice of the Peace.

Form of recognisance.

SEC. 2. *Be it further enacted*, That every Justice of the Peace taking any such recognisance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it

To be recorded by the Justice.